

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

v.

WILL CARTHAN

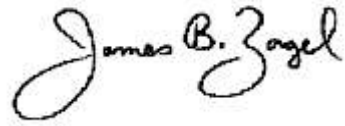
No. 99 CR 945 - 1
Judge James B. Zagel

ORDER DENYING MOTION TO REDUCE SENTENCE

I have a motion to reduce sentence under 18 U.S.C. 3582 (c)(2). Carthan was sentenced pursuant to a sentencing agreement. If I had the power to do so, I would reduce Carthan's sentence. I thought it was too long on the day I imposed it and, in subsequent efforts to reduce the sentence, I still believed the sentence was far too long. But in 2008, I did not have the power to reduce it, and I do not believe I have that power today. I reiterate my view that the only current remedy available to Carthan is that offered by the executive power of commutation administered by the Pardon Attorney in the DOJ. I would support a significant commutation in Carthan's case.

None of the prior guideline revisions enacted into law would reduce the Guideline in this case. The sentencing agreement was a contract in which Carthan was saved from life imprisonment in exchange for agreeing to a non-life sentence. Under the prevailing authority of *United States v. Ray*, 598 F.3d 407, 409-10 (7th Cir. 2010), I cannot find that *Ray* has been undermined by the fractured decision in *Freeman v. United States*, 131 S.Ct. 2685 (2011). Perhaps the Court of Appeals can be persuaded to the contrary or even persuaded to reverse *Ray*. It is beyond my power to do so, and the motion to reduce sentence is denied.

ENTER:

A handwritten signature in black ink that reads "James B. Zagel". The signature is written in a cursive style with a large, looping initial "J".

James B. Zagel
United States District Judge

DATE: January 24, 2013